

# Using Performance Measurement Data as a Management Tool

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This report addresses the following performance-based questions as they relate to the national enforcement and compliance assurance program:

1. Are we making progress in addressing national priorities and objectives?
2. Are we contributing to the goal of protecting human health and the environment through our actions and strategies?
3. Are we changing the behavior of the regulated community in ways that lead to improved environmental performance?
4. Are we achieving appropriate levels of compliance in key populations?
5. Are we achieving the appropriate levels of enforcement and compliance assurance activity in the regulated community?
6. Are we providing appropriate assistance to our state and tribal partners to help them contribute to improving environmental performance?

Office of Compliance  
OECA  
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# Using Performance Measurement Data as a Management Tool

## Executive Summary

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The purpose of this report is to highlight how OECA performance measurement data can be used as a management tool by the senior managers of the national enforcement and compliance assurance program. The process for preparing the report included three significant steps.

The first step in using measurement data as a management tool is determining what you want to know. The following performance-based questions were identified as major ones of potential interest to OECA's Assistant Administrator and senior managers:

1. Are we making progress in addressing national priorities and objectives?
2. Are we contributing to the goal of protecting human health and the environment through our actions and strategies?
3. Are we changing the behavior of the regulated community in ways that lead to improved environmental performance?
4. Are we achieving appropriate levels of compliance in key populations?
5. Are we achieving the appropriate levels of enforcement and compliance assurance activity in the regulated community?
6. Are we providing appropriate assistance to our state and tribal partners to help them contribute to improving environmental performance?

Secondly, we identified the key existing measurement data which could assist in answering each of these performance-based questions. (The attachment to this report provides a summary of the data.)

Finally, we prepared a series of analytical questions to accompany each set of measurement data. These questions focus on specific issues or aspects of performance and facilitate the analysis necessary to understand program performance. The analysis of the data is at the core of this report. Our intent is to look beyond the surface and investigate the story behind the data. The identification of major issues and corresponding recommendations for actions is expected to be the tangible result of the data analysis.

At its best, analysis of measurement data, along with other sources of information, can help us to understand the state of the national compliance and enforcement program and what steps, if any, should be taken to improve it. The full report and all the details follow.



# Using Performance Measurement Data as a Management Tool

## Full Report

The purpose of this report is to highlight how OECA performance measurement data can be used as a management tool by the Assistant Administrator and the other senior managers of the national enforcement and compliance assurance program.

The most important use of measurement data is to increase the effectiveness of strategies, programs, and activities. While OECA has used its measurement data to report results to Congress and the public, the data has been less frequently utilized to manage the compliance and enforcement program. This report provides OECA senior management with one approach for doing just that.

The benefits of implementation are numerous. At a minimum, by reviewing and analyzing the performance measurement data, potential “red flags” or trouble spots can be identified; these will often necessitate follow-up discussions with EPA and/or state experts, and investigations into the cause of the potential problem and what can be done to address it now and in the future. Analysis of measurement data can also help to clarify what we don’t know, which is a benefit, particularly if steps can be taken to address the gap in information. At its best, analysis of measurement data, along with other sources of information, can help us to understand the state of the national compliance and enforcement program and what steps, if any, should be taken to improve it.

## Process for Preparing Report

The process for preparing this report included three significant steps:

First, we identified the major performance-based questions in which OECA senior managers would likely be interested. These six questions address management of the national compliance and enforcement program.

Secondly, we identified the key existing measurement data which could assist in answering each of the performance-based questions. (This was the most challenging component of the project given the volume of measurement data collected by OECA.)

Finally, we prepared a series of analytical questions to accompany each set of measurement data. These questions focus on specific issues or aspects of performance and facilitate the analysis necessary to understand program performance.

## Limitations regarding Use of Data

While measurement data can effectively be used as a management tool, it is necessary to acknowledge its limitations and act accordingly.

First, measurement data alone should not be used to answer the performance-based questions identified in this report. OECA measurement data constitute just one source of information. There are myriad others which come into play when managing the national compliance and enforcement program, including, but not limited to, national program assessments (such as the Public Water System Annual Report), Inspector General reports, incident reports, tips and complaints, program office actions, anecdotal information on outcomes of compliance assistance initiatives and tools, and other qualitative sources such as discussions within OECA and with EPA program offices, EPA regional managers and staff, state, tribal and local representatives, the environmental justice community, regulated entities, and external customers in general.

Secondly, the data collected by OECA captures only part of the universe of all possible sources. In general, the larger facilities are the ones that tend to be included in our data systems. For this reason, it is important to look to other data sources, as we are doing now, to supplement the existing compliance data bases.

Thirdly, the quality of the information is dependent on the completeness of the data provided by the regions and the states. This is an important point, particularly as it relates to the data on significant non-compliers. If some states are not reporting significant non-compliers (SNCs), then portions of the SNC data analysis for certain programs can be flawed. For example, within the RCRA program, several states have not identified SNCs in years. This raises the question of whether the states are actually finding no SNCs, or whether they are finding them but failing to enter the data into the system. Either scenario poses problems. Regardless, such situations necessitate attention to and follow-up on the data which appears to be lacking in the system.

In addition, there are some data elements (e.g. time spent returning to compliance, recidivism rates, compliance rates for selected populations) which are relatively new. The analysis of such new data elements should prove to be more beneficial as we collect more data over time and, as a result, gain a better understanding of trends in these areas versus one-time anomalies.

In general, the use of measurement data which are already collected should lead to a better understanding of our data gaps and the actions which need to be taken to address these gaps in the future. The data gaps vary depending on the performance-based question and affect how comprehensively we can respond to each question.

## **Current Analysis of OECA Measurement Data**

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The Office of Compliance currently prepares several reports, on a regular basis, which provide analysis of compliance and enforcement measurement data, both at the national and regional levels. The purpose of this report is to provide a tool for OECA senior managers to use key performance information to analyze and manage the national program.

Other OECA managers, or EPA regional managers, may wish to use additional measurement data, beyond those identified in this report, for purposes of monitoring and evaluating media-specific and sector-specific compliance and enforcement programs. The measurement data outlined in this report was specifically identified with the AA and senior managers as the intended audience. This report must be revised on an annual basis to reflect relevant changes in the collection of measurement data and GPRA targets, lessons learned from the implementation of this first paper, and the management needs of the AA's office. It is anticipated that this report will become further refined following each year of its implementation and experience with the analysis.

## **Major Performance-Based Questions and Relationship to Strategic Plan**

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The first step in using OECA measurement data as a management tool is determining what you want to know.

The following performance-based questions were identified as major ones of potential interest to OECA's Assistant Administrator and senior managers:

1. Are we making progress in addressing national priorities and objectives?
2. Are we contributing to the goal of protecting human health and the environment through our actions and strategies?
3. Are we changing the behavior of the regulated community in ways that lead to improved environmental performance?

4. Are we achieving appropriate levels of compliance in key populations?
5. Are we achieving the appropriate levels of enforcement and compliance assurance activity in the regulated community?
6. Are we providing appropriate assistance to our state and tribal partners to help them contribute to improving environmental performance?

These questions were selected because they address key goals and objectives to which EPA's compliance and enforcement activities need to contribute, namely: (1) the achievement of national priorities and GPRA objectives; (2) protection of human health and the environment; (3) improved environmental performance by the regulated community; and (4) appropriate levels of compliance.

In addition, the performance-based questions support the Agency-wide Strategic Plan, including our goal that "EPA will ensure full compliance with laws intended to protect human health and the environment." The six questions directly relate to and are aligned with the pertinent objectives included in EPA's Strategic Plan, as illustrated by the outline below:

**Objective 1: Identify and reduce significant non-compliance in high priority program areas, while maintaining a strong enforcement presence in all regulatory program areas.**

**Relevant performance-based questions:**

- Are we making progress in addressing national priorities and objectives?
- Are we contributing to the goal of protecting human health and the environment through our actions and strategies?
- Are we achieving appropriate levels of compliance in key populations?
- Are we achieving the appropriate levels of enforcement and compliance assurance activity in the regulated community?

**Objective 2: Promote the regulated communities' voluntary compliance with environmental requirements through compliance incentives and assistance programs.**

**Relevant performance-based questions:**

- Are we changing the behavior of the regulated community in ways that lead to improved environmental performance?
- Are we achieving the appropriate levels of enforcement and compliance assurance activity in the regulated community?
- Are we providing appropriate assistance to our state and tribal partners to help them contribute to improving environmental performance?

## Organization of Report and Data Analysis

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The rest of this report is organized around the aforementioned six questions. We identify the current relevant and most important measurement data for each performance-based question and provide a series of analytical questions which, once answered, can turn the measurement data into a management tool.

Only existing measurement data are referenced in this report, which does not include ideas for the collection of any new data. Throughout this report, you will notice that there are asteriks \* placed next to specific data items. Such data will not be presented to the AA due to volume. Instead, such data will be analyzed and the relevant analyses will be shared with senior management. The rest of the data, which are not asteriked, will be provided to the AA in summary form, along with the accompanying pertinent analysis.

The end-result is that the volume of data presented to the AA and senior management will not be extensive per question. Instead, the focus will be on the analysis of the data and investigating the story behind the data. The identification of major issues and corresponding recommendations for actions is anticipated to be the tangible result of the data analysis.

In order to get to this point and use the existing data as a management tool, we have identified several analytical questions which could be answered for each data set listed below. Throughout this report, these questions are generally divided into two categories: (1) basic mathematical analysis (e.g., have inspections increased/decreased, etc); and (2) investigative and follow-up management questions (e.g., why is this happening; what else is going on here; do we need to take action; if so, what action and when; etc). In order to distinguish between these two categories, the investigative and follow-up management questions are provided in *italic* type.

In addition, the following question should be asked for each data item listed in this report: “Is there a gap in our information regarding this topic which we should try to fill in the future?” Rather than repeat this question under each data element, it is being mentioned here once.

The data analyzed will be arrayed in a variety of ways, as noted in the “relevant measurement box” included under each performance based question. However, two additional points need to be highlighted here. First, data for inspection and enforcement programs managed through headquarters will be analyzed, in addition to regional and state data. Secondly, in response to each performance-based question, the final analysis will specifically highlight relevant data and conclusions for all **federally-run programs**. There are numerous such programs which include, but are not limited to, federal compliance and enforcement activities on **tribal lands**. We believe it is important for part of our analysis to focus on our own performance where we are the sovereign responsible for compliance monitoring and enforcement. As a result, the analytical questions included in the rest of the report will also be applied to federally-run programs.

## Are we making progress in addressing national priorities and objectives?

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With regard to relevant measurement data for national priorities, that data needs to be priority-specific. By first identifying the goal under each of our priorities, we can then articulate the corresponding measures and relevant data to determine if we are making progress in addressing national priorities.

If priority-specific measures are unavailable, the following generic measures could be utilized: (a) EPA and state inspections/investigations in MOA priority areas (per region and priority) compared to regulated universe (if known); the “sic code report” prepared in OC can assist in identifying these inspections, in addition to the MOA submittal; (b) number of initiated and concluded enforcement actions per region and prior-

ity, and percent including SEPs or injunctive relief/other compliance actions; (c) pollutant load to be reduced and improvements in environmental monitoring as a result of commitments in enforcement actions, per region and priority; (d) other environmental or human health outcomes; (e) use of compliance incentives (as applicable), per priority and region, and resulting outcomes; and (f) recidivism rates by priority. Nonetheless, for obvious reasons, it is preferable to design and utilize priority-specific measures against which performance can be evaluated.

In summary, the following measurement data can assist in answering the question, “Are we making progress in addressing national priorities and objectives?”

### Relevant measurement data

1. Priority-specific measures (See examples above.)
2. Planned versus actual accomplishments under GPRA Goal 9 measures  
(Note: The Goal 9 “table of results” from the Agency’s Annual Report would be utilized here.)

In order to use the data as a management tool, the following questions could be asked and answered for each data set listed below.

## 1. Priority-specific measures

Analytical questions, specific to each priority, should be asked and answered for each measure. (Generic measures are listed in the previous section above.)

Examples of questions include: What’s our goal per priority and have we achieved it? What is the level of activity, per region, being undertaken to achieve the goal? Is this level appropriate? Is the activity consistent with the strategy for addressing this priority? Is our coverage appropriate? Looking at each region, are we identifying violations in response to inspections or other monitoring techniques? What is the pollutant load to be reduced and/or improvements in environmental monitoring as a result of inspections or commitments in enforcement actions, per region and priority? What about other environmental or human health outcomes? What is the recidivism rate for inspected facilities per priority? Are there certain techniques which were effective in reducing recidivism? How, if at all, are compliance incentives being used to address each priority? What are the results with regard to encouraging compliance and environmental/human health outcomes? Are there particular regions which stand out with regard to level of activity, approaches, or environmental/human health outcomes? Why is this the case? Are there lessons which are transferable across regions? Or with regard to strategies for future priorities?

In summary, the bottom-line questions would seem to be: Have we set measurable goals? Did we achieve our goal per priority? Why or why not? What were the environmental or human health outcomes? Were the strategies used for implementation effective? Accordingly, what action(s) do we need to take now and in the future? What lessons were learned from the priority strategies which should be applied to our future activities?

## 2. Planned versus actual accomplishments under GPRA Goal 9 measures

Looking at each GPRA performance measure, compare planned accomplishments to actual achievements. What accounts for the differences, if any? Are the target numbers too challenging or too low? Are there certain regions or program areas which stand out in terms of level of achievement or lack thereof? If so, why? Are there lessons here which are transferable? Are there management actions which need to be taken based on the data analysis? If so, what actions and by whom?

## **Are we contributing to the goal of protecting human health and the environment through our actions and strategies?**

The following measurement data can assist in answering the question, “Are we contributing to the goal of protecting human health and the environment through our actions and strategies?”

### **Relevant measurement data**

1. Program/sector-specific compliance/enforcement data focused on areas of serious risk
  2. Percent of enforcement actions that result in reduction, elimination or treatment of pollutants – three year trend per program and region
  3. Pounds of pollutants expected to be reduced through SEPs and injunctive relief/ other compliance actions – three year trend per program and region
  4. Percent of enforcement actions ensuring compliance with requirements for risk monitoring, reporting and management – three year trend per program and region
  5. Dollar value of injunctive relief - three year trend per program and region
  6. Percent of facilities which address deficiencies during inspections resulting in reduced pollution, per program and region
- (ICDS data available beginning in FY 2002 for CAA-stationary sources, CWA-NPDES, GLPs, TSCA lead-based paint)

It should be noted that, in the future, OECA also intends to collect outcome data resulting from EPA regional compliance assistance activities, including information on environmental and human health improvements resulting from compliance assistance.

In order to use the existing data (outlined above) as a management tool, the following questions could be asked and answered for each data set listed below.

### **1. Program/sector-specific compliance and enforcement data focused on areas of serious risk**

Areas of serious risk will be identified for specific programs and sectors. The associated compliance and enforcement data for these areas of serious risk will then be examined to determine if sufficient progress is being made. As a result, these measures will be tailored to specific programs, their unique requirements and associated definitions of serious risk.

For example, we may wish to measure the impacts of enforcement actions on impaired waters and the number of rivers deleted from the 303(d) list. Similarly, we could examine the percent of actions issued against drinking water systems not meeting microbial standards and the resulting impacts on compliance and the quality of drinking water. These are simply examples. OECA and regional program experts will identify a limited number of appropriate measures, focused on areas of serious risk, per program area. Accompanying analytical questions will then be prepared and answered.

### **2. Percent of enforcement actions that result in reduction, elimination or treatment of pollutants – three year trend per program and region**

Overall, are we maintaining a high percentage of enforcement actions that require reduction, elimination or treatment of pollutants? Are there certain regions or programs which stand out with regard to these types of actions?

*Why is that the case? Are there lessons which are transferable? What types of physical compliance actions result in pollutant reductions/eliminations/treatment? IF we wanted to increase our current percentage, of these types of enforcement actions, what would we need to do? What would be the trade-offs vis-a-vis other types of enforcement actions or compliance assurance activities? What would be the impact on the level of activity under specific programs? In light of the trade-offs, do we wish to place greater emphasis on these types of enforcement actions?*

### **3. Pounds of pollutants expected to be reduced through SEPs and injunctive relief/other compliance actions - three year trend per program and region**

**The FY 2001 GPRA target for pollutants reduced through enforcement is 350 million pounds? Have we met this target? What is the trend with regard to reduction of pollutants? Is there a particular program or region where there is a greater reduction of pollutants?**

*Why is this the case? Are there initiatives which were recently completed per region or program which impacted the reduction of pollutants? Compare the pounds of pollutants reduced through SEPs with the pounds reduced through injunctive relief/other compliance actions. Is there a significant difference? If so, what accounts for this difference? Does the difference indicate that certain approaches result in greater reduction of pollutants? If so, which approaches result in greater reduction? Examine the different types of SEPs used and the corresponding pollutant reduction. Are there certain categories of SEPs that result in greater pollutant reduction? If so, what are they and what has been the trend with regard to their use? Do these SEPs take greater resources to negotiate or monitor? How so? What's the impact on other work? When are the pollutant reductions actually achieved? Do the actual pollutant reductions tend to match expectations? Are there particular types of SEPs whose use we want to increase? How, if at all, should we do so? Is there a particular region or program which carried out the bulk of the Agency's work within a particular category of SEP? Are there lessons which are transferable to other regions/programs? What has been the trend with regard to cases with SEPs per program and region? Is there a particular region or program with a high number of SEPs? Why is that the case? Are there lessons which are transferable to other regions? What are the EPA resource costs associated with pursuing SEPs? Is there anything that EPA can and should do to increase the reduction of pollutants through enforcement? If we were to pursue these activities, what would be the associated trade-offs and costs?*

### **4. Percent of enforcement actions ensuring compliance with requirements for risk monitoring, reporting and management – three year trend per program and region**

**What is the percent of enforcement actions ensuring compliance with requirements for risk monitoring, reporting and management, per program area and region? Look at the trend over the past three years. What is the trend per program area? Are there any regions or HQ programs which stand out within a particular program area? Are there any program areas with a large percentage of cases?**

*Why is that the case? Are their targeting techniques different from other regions? Have any of these program areas or regions utilized compliance incentive initiatives (e.g., audit policy initiatives, etc) to increase enforcement actions? If so, were they successful? How so? What were the associated resources necessary for the initiatives? How do they compare with the resources which would have had to be expended to achieve the same number of cases via traditional means? Are there lessons which are transferable? What priority, if any, has OECA placed on these cases, per program area, in recent years? Does management want to shift the priority level previously assigned to these cases, per program area? If so, what are the trade-offs?*

## 5. Dollar value of injunctive relief – three year trend per program and region

Is the dollar value of injunctive relief remaining constant or increasing over the years?

*What, if anything, should be done to influence the trend? Is there a particular program or region which stands out with regard to the dollar value of injunctive relief? Why is that the case? Are there lessons which are transferable?*

## 6. Percent of facilities which address deficiencies during inspections resulting in reduced pollution, per program and region. (Data from Inspection Conclusion Data Sheet.)

Looking at each applicable program for which data are collected, what is the percent of inspected facilities which address deficiencies during inspections? What type of actions did these inspected facilities take? Did any inspected facilities take any actions during the inspection to reduce pollution? If so, how many and what percentage? What pollutants did they reduce?

*Does any region or program stand out in terms of the percentage of inspected facilities taking action to reduce pollution? Why is this the case? Are there lessons here which are transferable? Is there a trend in the type of actions being taken within specific programs or sectors? Does this trend necessitate any change in the guidance provided to inspectors (within specific programs) as to what to examine more closely during inspections? Does the trend indicate the need for specific compliance assistance materials for a particular program or sector?*

## Are we changing the behavior of the regulated community in ways that lead to improved environmental performance?

The measurement data which follows can assist in answering the question, “Are we changing the behavior of the regulated community in ways that lead to improved environmental performance?”.

### Relevant Measurement Data

1. Percent of SNCs that return to compliance in less than 2 years\*
2. Recidivism rate for significant violators per program and state\*
3. Use of compliance assistance centers and resulting actions – three year trend
4. Use of compliance incentives and resulting impacts – three year trend per program and region
5. Percent of facilities which address deficiencies during inspections, per region/program, and types of actions taken (ICDS data available in FY 2002 for CAA-stationary sources, CWA-NPDES, GLPS, TSCA lead-based paint)
6. Percent of enforcement actions requiring improvements in environmental management – three year trend per program and region
7. Changes in environmental performance resulting from SEPs (i.e., pounds of pollutants expected to be reduced) and EPA actions which led to these changes (i.e., cases with SEPs and types of SEPs negotiated) – three year trend per program and region
8. Statistically valid non-compliance rates for selected populations (Data available beginning in FY 2001/2002. Need to track over time.)

It should be noted that, in the future, OC also intends to collect behavioral change and outcome data resulting from EPA regional compliance assistance activities, including information on environmental and human health improvements resulting from compliance assistance.

The relevant data sets for “Are we changing the behavior of the regulated community in ways that lead to improved environmental performance?” and the corresponding analytical questions now follow.

### **1. Percent of significant non-compliers (SNCs) that return to compliance in less than 2 years\***

**Compare the most recent data on time to return from significant noncompliance with last year’s data. Conduct the comparison only within each program. (Programs should not be compared to each other due to differing definitions of significant non-compliance.) Has there been an increase in the percentage of significant non-complier facilities under these programs which returned to compliance in less than 2 years? If so, what is it? The FY 2001 GPRA target is to achieve a 2% increase. Has this target been met?**

*If not, why not? Has there been an increase in time to return to compliance within a specific media program? What accounts for that increase? Are there particular states where the time for significant violators to return to compliance has increased? Based on discussions with the affected regions and states, why has that occurred? Once significant violators are identified by these states, how are they monitored until they return to compliance? Is there anything that the state or EPA is doing or should be doing to decrease the time to return to compliance? What steps, if any, should be taken and by whom? Are there components of possible model programs with regard to monitoring SNCs and ensuring their return to compliance? If so, what are they?*

### **2. Recidivism rate for significant violators per program and state (for CAA, CWA and RCRA)\***

**The FY 2001 GPRA target is to reduce the overall recidivism rate by 2% from last year. Has this target been achieved? Looking within each media program, is the rate of recidivism of significant violators decreasing over time?**

*If not, why not? What accounts for the increase or absence of a decrease? Look at the state-by-state data for this year compared to last year. Are there particular states where the recidivism rate has significantly increased? Looking at the most recent data, are there particular states where the recidivism rate is greater than the national average? Based on discussions with the affected regions and states, why has that occurred? Is it a function of the frequency of inspection - that is, are they inspecting more often? Are there new regulations or new statutory requirements within a particular media program which recently became effective and which impacted the recidivism rate? Once significant violators have new or recurring violations, how are they monitored by these states? Are they monitored until they return to compliance? Looking at the most recent data, are there particular states where the recidivism rate has significantly decreased compared to last year? Are there particular states where the recidivism rate is much lower than the national average? Why has that occurred? Are they inspecting less often? Once significant violators have new or recurring violations, how are they monitored by these states? Are they monitored until they return to compliance? Based on past experience and what has/has not been working, is there anything that the state or EPA should be doing to reduce the recidivism rate? What steps, if any, should be taken?*

### **3. Use of compliance assistance centers and resulting actions - three year trend**

Are the visits to the compliance assistance centers increasing? Based on the survey of center users, does there continue to be a high percentage of users (survey respondents) who take action as a result of visiting the centers? What is the profile of the users?

*Are we supporting the centers by promoting their use? How so? What else, if anything, should be done to promote use of the centers? How, if at all, should we help to increase the percent of users (survey respondents) who take action as a result of using the centers? Looking at the sectors on which the centers are focused, do we have any data which indicates that there has been an increase in non-compliance within one or more of these sectors? If so, do we need to focus more attention on the corresponding centers (with the hope that they will help to decrease non-compliance)?*

### **4. Use of compliance incentives and resulting impacts - three year trend per program and region**

Have we seen an increase in companies and/or facilities disclosing violations under the audit policy? With how many facilities have we completed settlements to voluntarily self-disclose and correct violations? The FY 2001 GPRA target is 500 facilities. Have we met this target? For each media program, do we know the number of self-disclosures from targeted programs/initiatives versus “walk-ins”? What types of changes to processes do companies/facilities make related to their use of the audit policy? Do we know the environmental significance of the audit policy cases with regard to pounds of pollutants reduced per program/region and dollar value of injunctive relief per program/region? How, if at all, does this differ significantly by region or media program? Are there particular media programs or regions where we see greater use of the audit policy? Greater results/outcomes from the audit policy?

*Why is that the case? Are there lessons regarding use of the audit policy that can be shared between media programs or regions? What are we doing to promote use of the audit policy? How else should we encourage use of this policy? Is the audit policy being used in compliance and enforcement initiatives? At the national level? Regional level? If not, why not? How resource intensive are these initiatives compared to the resources which would be spent generating the same cases via traditional means? Do they have any impacts on the development of SEPs? Are these initiatives effective in generating a greater number of audit policy disclosures than “walk-ins”? Should we be doing more initiatives? Are there model components of effective initiatives based on our past experience? What lessons can be shared from past initiatives where the audit policy was used? Is the audit policy being used in innovation projects/programs (e.g. performance track, XL, ECOS projects)? How, if at all, do we want to encourage this? Is there anything that we can and want to do to influence the types of changes to processes that companies/facilities make related to their use of the audit policy?*

Have we seen an increase in facilities disclosing violations under the small business policy? Are there particular media programs or regions where we see greater use of this policy? Greater results/outcomes from the policy? Do we know the environmental significance of the small business policy cases with regard to pounds of pollutants reduced per program/region and dollar value of injunctive relief per program/region? How, if at all, does this differ significantly by region or media program?

*Why is that the case? Are there lessons regarding use of the small business policy that can be shared between media programs or regions? Are there lessons regarding promotion of the audit policy that can be applied to the small business policy? What are we doing to promote use of the small business policy? How else should we encourage use of this policy? How are we notifying small businesses about the existence of the small business policy? How can we continue to reach these small businesses? How can we further illustrate the benefits of utiliz-*

*ing this policy? Is the small business policy being used in compliance and enforcement initiatives? If not, why not? How resource intensive, if at all, are these initiatives? Do they generate more self-disclosures than walk-ins? Are there any downsides to using the policy? If so, what are they and how can they be addressed? What lessons, if any, can be shared from past initiatives where this policy was used? Is the small business policy being used in innovation projects/programs (e.g. performance track, XL, ECOS projects)? How, if at all, do we want to encourage this?*

**Which states have applied the “policy on flexible state enforcement responses to small community violations”?**

*Do we see application of the small communities policy increasing? If not, why not? Do the states that use the policy have any ideas on how we can increase its use? Do they think we should increase its use? Based on discussions with states that have not used the policy, why have they not done so? How does EPA promote use of the policy? Is there anything else that EPA should be doing to promote its use?*

**Have we increased the use of environmental management systems (EMSs)? How so? Our FY 2001 GPRA target is to develop 3 tools to increase EMS use. Have we met this target?**

*How much compliance assistance, and in what forms, have we provided to regulated entities and facilities to develop and implement new EMSs? To enhance and improve existing EMSs? How many of these entities, as a result of interacting with EPA, enhanced their EMSs with a compliance focus? How many case settlements with compliance-focused EMS (CFEMS) provisions, involving how many facilities in what sectors, have we concluded? What are the EPA resource costs associated with negotiating and/or monitoring these EMSs?*

*Do we document cases where EPA provides CFEMS-related consulting to defendants or respondents, but the final settlements do not contain EMS provisions? For firms with EMSs, what are they choosing as their objectives and targets? What metrics are they using to measure their performance? And are the firms achieving their goals? Are we seeing a positive relationship between having an EMS and showing improved performance and/or compliance? If so, where and why? In contrast, are we seeing situations where EMSs appear to have had no impact on, or have worsened, compliance and/or performance? If so, again, where and why? What are we seeing as the primary barriers to increasing industry’s use of EMSs in general? Of CFEMSs? How are those barriers being overcome, and are the solutions transferable across sectors, regions and states? Are there additional compliance or enforcement-based incentives that might be appropriate to offer as incentives for EMS development and use?*

**Are regions participating in any pilots under the Environmental Results Program (ERP)?**

*Are states with other types of self-certification programs more likely to engage in the ERP? Are there lessons which are transferable to other regions?*

## **5. Percent of facilities which address deficiencies during inspections, per region, and types of actions taken**

**Looking at each applicable program for which data are collected, what is the percent of inspected facilities which address deficiencies during inspections? What type of actions did these inspected facilities take? What are the environmental or human health impacts?**

*Is there a trend in the type of actions being taken within specific programs or sectors? Does this trend necessitate any change in the guidance provided to inspectors (within specific programs) as to what to examine more closely during inspections? Does the trend indicate the need for specific compliance assistance materials for a particular media program or sector? Does any region stand out in terms of the percent of inspected facilities addressing deficiencies? Why is this the case? Are there lessons here which are transferable? Looking at each individual region, is there a trend in the type of actions being taken within specific*

programs? Does this trend necessitate any change in the regional guidance provided to inspectors (within specific programs) as to what to examine more closely during inspections? Has there been an increase or decrease in the percent of inspected facilities which address deficiencies during inspections? Do we know why? (Obviously, these last two questions can only be answered when we have data for more than one year.)

## **6. Percent of enforcement actions requiring improvements in environmental management – three year trend per program and region**

**What is the percentage of enforcement actions requiring improvements in environmental management? The FY 2001 GPRA target is 75%. Has this target been met? If not, how, if at all, should we increase the percentage of enforcement actions requiring improvements in environmental management?**

What is the trend with regard to these actions per program and region? Does any region or program stand out in terms of percentage of such actions? *If so, why is that the case? Are there certain types of actions which lead to greater improvements in environmental management? Are there any lessons which are transferable?*

## **7. Changes in environmental performance resulting from SEPs (i.e., pounds of pollutants expected to be reduced) and EPA actions which contributed to these changes (i.e., cases with SEPs and types of SEPs negotiated) – three year trend per program and region**

**How many pounds of pollutants are expected to be reduced through SEPs negotiated as part of enforcement cases? What is the trend with regard to reduction of pollutants? Is there a particular program or region where there is a greater reduction of pollutants?**

*Why is this the case? Are there initiatives which were recently completed per region or program which impacted the reduction of pollutants? Examine the different types of SEPs used and the corresponding pollutant reduction. Are there certain categories of SEPs that are expected to result in greater pollutant reduction? If so, what are they and what has been the trend with regard to their use? Do these SEPs take greater resources to negotiate or monitor? How so? What is the impact on other work? When are the pollutant reductions actually achieved? Do the actual pollutant reductions tend to match expectations? Do we want to increase the use of particular types of SEPs? How, if at all, should we do so? Is there a particular region or program which carried out the bulk of the Agency's work within a particular category of SEP? Why? Are there lessons which are transferable to other regions/programs? What has been the trend with regard to cases with SEPs per program and region? Is there a particular region or media program with a high number of SEPs? Why is that the case? Are there lessons which are transferable? What are the EPA resource costs associated with pursuing and monitoring implementation of SEPs? Is there anything that EPA can and should do to increase the reduction of pollutants through enforcement? If we were to pursue these activities, what would be the associated trade-offs and costs?*

## 8. Statistically valid non-compliance rates for selected populations

Looking at each selected population, are we maintaining existing compliance rates? Are non-compliance rates decreasing?

*If so, why? Are there lessons which are transferable? If not, why not? What, if anything, should be done to decrease the non-compliance rates for these selected populations? What are the trade-offs associated with focusing on these selected populations? Are we comfortable with these trade-offs?*

## Are we achieving appropriate levels of compliance in key populations?

The following measurement data can assist in answering the question, “Are we achieving appropriate levels of compliance in key populations?”

### Relevant measurement data

1. Statistically valid non-compliance rates for selected populations  
(Data will begin to be available in FY 2001/2002. Need to track over time.)
2. Rates for SNC populations
  - a. Number/percent of inspected facilities and violators that are SNCs per region, state and program\*
  - b. Time to return from SNC per region, state and program\*
  - c. Rate of recidivism for SNC per region, state and program

In order to use the data as a management tool, the following questions could be asked and answered for each data set listed below.

### 1. Statistically valid non-compliance rates for selected populations

**Looking at each selected population, what is the compliance rate? Are we maintaining existing compliance rates? Are non-compliance rates decreasing?**

*If not, why not? What, if anything, should be done to decrease the non-compliance rates for these selected populations? What are the trade-offs associated with focusing on these selected populations? Are we comfortable with these trade-offs?*

### 2. Rates for SNC populations

- a. Number/percent of inspected facilities and violators that are SNCs per region, state and program\*

What is the number/percent of inspected facilities and violators that are SNCs per region, state and program? Looking at each program area, what is the trend per region and state? What is the trend per program?

*If the state has identified a low number of SNCs, why is this the case? If there has been a significant reduction in identification of SNCs in a particular state (e.g. reduction of a third or more), why is this the case? What targeting techniques are they using? Are they new?*

*How does the state's technique for identifying SNCs compare to that of a state with a high number of identified SNCs? If identification of SNCs has decreased, has there been an accompanying decrease in inspections? Is the state inputting SNC data into the computer system? Are there any lessons which are transferable?*

**b. Time to return from significant non-compliance (SNC) per region, state and program\***

Looking at the data available for the most recent fiscal year, in which regions and states are significant non-compliers still out of compliance after a year? After 2 years?

*Once these significant violators are identified by the state, how are they monitored until they return to compliance? What accounts for this extended period of non-compliance? In other words, why does it take so long to return to compliance? Are these complex cases? Are there any lessons to be learned which are transferable to other states or regions? Is there anything that EPA or the state should be doing to facilitate the return to compliance?*

In which states are significant non-compliers back into compliance within a year?

*Once these significant violators are identified by the state, how are they monitored until they return to compliance? Are there any lessons to be learned which are transferable to other states? If not, why not? If so, what are the lessons?*

**c. Rate of recidivism for significant non-compliers per region, state and program**

**In which regions and states is the rate of recidivism greater than the national average? What accounts for such a high rate of recidivism? Are they inspecting more (than others) and therefore identifying the violators? What techniques, if any, are used to monitor these facilities once they are determined to be in significant non-compliance? What different techniques, if any, are used to monitor these facilities once they have recurring violations? Are there any lessons to be learned here which are transferable to other states or regions?**

**In which regions and states is the rate of recidivism lower than the national average? In these states, are they inspecting less? What techniques are used to ensure that SNCs stay in compliance? Are there any lessons to be learned here which are transferable to other states or regions?**

## **Are we achieving the appropriate levels of enforcement and compliance assurance activity in the regulated community?**

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This one question encompasses two different categories of activities: 1) EPA regional and HQ activity by program and industry sector; and 2) state activity. The relevant measurement data for each of these categories are outlined below.

You will note that the focus of this question is output oriented, whereas the responses to the previous questions encompass environmental outcome information as well. Nonetheless, the outcome data presented in response to the prior questions will be arrayed and analyzed by region which will facilitate an understanding of the effectiveness and impact of the regional activity.

## Level of EPA Enforcement and Compliance Assurance Activity

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The measurement data on the next page can assist in informing management about the level of regional activity, as well as inspection and enforcement programs managed through headquarters (HQ). In order to use the data as a management tool, the following questions could be asked and answered for each data set listed below.

### 1. Basic EPA compliance and enforcement activities over three year period, by program, region and HQ \*

Looking at each type of compliance and enforcement activity, what is the trend per region and HQ managed program? Looking over the three year period, is there a consistent level of compliance and enforcement activity within each region and at HQ? *Looking at each region and HQ-managed programs, is there a need to take any action to positively influence the regional trends? The trend at HQ? If so, what action should be taken and by whom?*

Does any region or HQ program stand out in terms of level of activity under a specific program? *If so, why? How were they able to accomplish this level of activity? Are there lessons which are transferable to other regions or media programs? Is any region using alternative approaches to inspections and achieving good results? If so, what are those approaches and are there lessons which are transferable?*

Is the level of routine inspection activity in the region commensurate with its projections? *If not, why? Do we need to change the guidance which OECA provides regarding projections? What types of inspections were conducted within each media program per region? Are we comfortable with the activity level for each type of inspection per region? At HQ? Do we need to establish a minimum number of EPA inspections that must be conducted for certain programs (e.g., inspections on tribal lands or inspections for non-delegated programs)? Are there any trends across the regions or at HQ that highlight a national issue or concern? If so, what action should be taken and by whom?*

What is the national trend with regard to different compliance and enforcement activities? Is the national trend moving in the right direction? *If not, why not? Are there any trends across media programs that highlight a national concern? What do these trends bode for the future? Should any action be taken to positively influence these trends? If we take action, are there any trade-offs regarding other activities that we need to acknowledge?*

Does any media program stand out in terms of level of activity? Is this a one-time event or part of a trend? *How were we able to accomplish this level of activity? What were the trade-offs/costs? Are there lessons which are transferable to other media programs?*

Is each region taking the core enforcement and compliance assurance elements of the MOA that are relevant to Indian country in their region, and including them in its targeting scheme? *If so, how and for what programs? If not, why? Are there lessons which are transferable to other regions or media programs?*

## Relevant measurement data on regional & HQ activity (by program and sector)

1. Basic EPA compliance and enforcement activities over 3 year period, by program, region and HQ\*
 

Note: This covers: a) civil and criminal inspections/investigations and projections (including inspection types per media and tribal inspections); b) administrative compliance orders issued; c) administrative penalty complaints and final penalty orders; d) informal actions; e) civil referrals to DOJ; f) civil judicial settlements; g) criminal referrals; and h) responses to citizen complaints. A national one page summary would be provided for senior mgmt.
2. Three year national totals for EPA inspections and enforcement per sector
3. EPA and state inspection coverage in a given year per program, region and state (over 3 years)\* (Note: Items 3-7 are also analyzed in state section.)
4. Inspection frequency (per region, state & program)
  - a. Percentage likelihood that a facility will be inspected over 1-2 years and over a 5 year period\*
  - b. Percent of inspections adhering to program-specific guidance on inspection frequency
5. Likelihood of an inspection identifying a violation (per region, state & program)
  - a. Ratio of inspections to new violators\*
  - b. Ratio of inspections to new SNC\*
  - c. Percent of EPA inspections that reveal no violations
6. Likelihood that a violation will lead to an enforcement action -  
Ratio of violations to enforcement actions (informal vs. formal actions)\*
7. Regional proportions
  - a. Percent of actions that carry a monetary penalty & average penalty size per region, state and program\*
  - b. Regional proportions of inspection & enforcement outputs per program
8. Compliance Assistance (CA)
  - a. Number & types of CA outputs by region, program and sector
  - b. Number & types of planned CA activities, per region, included in compliance assistance plan\*
  - c. Percentage of ICDS pilot inspections, per program and region, which include delivery of CA\*
9. Injunctive Relief and Supplemental Environmental Projects (SEPs)
10. Compliance incentives
  - a. Number of cos. & facilities disclosing & settling violations under the audit & small business policy per program and region - 3 year trend
11. Administrative tracking and follow-up
  - a. Regional judicial consent decree tracking and follow-up
  - b. Completeness of case conclusion data sheet attributes in docket
  - c. Use of Inspection Conclusion Data Sheet (ICDS)\*

## Additional Questions on Inspections/Investigations

**The FY 2001 GPRA target for EPA inspections is 17000. Have we met this target? How do the national inspection numbers compare to projections? Are there any significant differences?**

*What accounts for those differences? Do we need to change the guidance that EPA provides regarding projections? What types of inspections were conducted within each media program? Are we comfortable with the level of activity within each of these inspection types? Do we need to establish a minimum number of EPA inspections that must be conducted for certain programs (e.g., non-delegated or other programs; inspections on tribal lands)?*

**The FY 2001 GPRA target for civil investigations is 250. Have we met this target? Is the number of civil investigations remaining constant or increasing per media program? Per region?**

*Is management satisfied with the number of civil investigations per media program? Does any region or media program stand out with regard to the number of civil investigations? Why is that the case? Are there lessons here which are transferable between media programs or regions?*

**The FY 2001 GPRA target for criminal investigations is 450. Have we met this target? Is the number of criminal investigations remaining constant or increasing per media program? Per region?**

*Is management satisfied with the number of criminal investigations per media program? Per region? Does any region or media program stand out with regard to the number of criminal investigations? Why is that the case? Are there lessons here which are transferable between media programs or regions?*

## 2. Three year national totals for EPA inspections and enforcement per sector - One page summary

**Are there any national trends with regard to different compliance and enforcement activities within particular sectors?**

*If not, why not? What do these trends, or the lack thereof, bode for the future? What actions, if any, should be taken to establish or positively influence a trend? Does OECA need to provide any guidance? Does any sector stand out in terms of level of activity? How was the sector program able to accomplish this level of activity? Are there lessons which are transferable to other sector programs?*

## 3. EPA and state inspection coverage per program, region and state\*

**What is the trend with regard to inspection coverage per program? Per region? Per state?**

*Are we satisfied with the trend per program? Are we satisfied with the trend per region? Are we satisfied with the trend per state? Taking into account coverage by just the states, is there sufficient coverage per program? If not, taking into account coverage by both the regions and the states, is there sufficient coverage per program? Are there any steps that we wish to take to influence inspection coverage within one or more particular program? Is there a minimum number of inspections that we want the EPA regions to conduct for certain programs? If so, have we communicated this to the regions? What approaches, if any, should be used to augment inspection coverage? Per program? What are the trade-offs, if any, associated with augmenting inspection coverage? If the states are providing sufficient coverage within a specific media program, do the regions need to devote any resources to this media program? If not, how should these resources be re-deployed if at all? If so, why do the regions need to devote inspection resources to this delegated program? What do the regions think? What do the states think? What does the OECA media manager think? Should the regions focus more inspection resources on non-delegated programs for which the states and tribes are not responsible? If not,*

*why not? If so, how should resources be re-deployed? Do we have adequate resources to cover the areas we have deemed important? If not, where do we cut back? What are the associated trade-offs? How, if at all, do we address areas where resources are not adequate?*

#### **4. Inspection frequency**

**What is the likelihood that a facility will be inspected over 1-2 years and over a 5 year period? Examine this question per region, state and program. (This particular question addressing inspections over 1-2 years does not apply to the CAA program given prior agreements reached with OECA.)**

*Is the resulting likelihood satisfactory? If not, why does the current situation exist? How does the likelihood compare to any program specific guidance on frequency of inspection? Are there any regions, states or programs which stand out in terms of frequency of inspection? How so? Are there lessons which are transferable? What action, if any, should be taken to influence the current status? Who should take this action? What are the trade-offs associated with influencing this? Does the data analysis indicate that any new EPA policy/guidance is necessary? Does the data analysis indicate that monitoring of inspection frequency needs to be revisited?*

**Looking at each program, what is our program-specific guidance, if any, on frequency of inspection? Where such guidance exists, what percent of inspections, per program, adhere to it? Are there any stand-out programs or regions?**

*Why? Are there any lessons here which are transferable? Are the percentages generally low? Why is that the case? Do we need to handle the guidance differently with regard to changes in substance and/or approaches in implementation and monitoring?*

#### **5. Likelihood of an inspection identifying a violation (per region, state, program)\***

**What is the likelihood of an inspection identifying a violation? Examine this question per region, state and program.**

*Is the ratio of inspections to new violators satisfactory from management's perspective? Is the ratio of inspections to new SNCs satisfactory? If the ratios are high, why is that the case? Are there regions, states or programs which stand out in terms of likelihood of identifying a violation? Why is that the case? What targeting techniques are used? Are there different targeting techniques which are used in the regions/states with a greater likelihood for identifying a violation? Are there lessons which are transferable? Are SNCs being identified but not reported? How, if at all, is this monitored? What should be done, if anything, to influence these ratios? Do the ratios call for any action to be taken by EPA or states? If so, what action needs to be taken and by whom?*

**What is the percent of EPA inspections that reveal no violations, per program and region? Are there any stand-out regions or programs (either positive or negative)?**

*Why is that the case? Do these regions (or HQ programs) use any unusual or different targeting techniques compared to their colleagues in other regions? What techniques could be used per program, as necessary, to enhance our ability to identify violations? What are the repercussions, if any, from using such techniques? What guidance or assistance from HQ, if any, needs to be provided?*

## **6. Likelihood that a violation will lead to an enforcement action - Ratio of violations to enforcement actions (formal vs informal actions)\***

**What is the likelihood that a violation will lead to an enforcement action? Examine this question per region, state and program.**

*Is the ratio of violations to enforcement actions (formal versus informal actions) acceptable? If the ratios are high, why is that the case? How are the violations being resolved? What actions are being taken by EPA and/or the state in response to the violation being identified? Is correction of violations being monitored? Are there any regions, states or programs which stand out in terms of likelihood that a violation will lead to an enforcement action? Why is that the case? Are there lessons here which are transferable? Do the ratios call for any new activity on the part of EPA or the state? If so, what type of action should be taken and by whom?*

## **7. Regional proportions**

### **a. Percent of actions that carry a monetary penalty and average penalty size\***

**What is the percent of actions that carry a monetary penalty? What is the average penalty size? Examine these questions per region, state and program.**

*Are we comfortable with the percentage? If not, what if anything should be done about it and by whom? Are there any regions, states or programs which stand out with regard to the percentage of actions that carry a monetary penalty? With regard to the average penalty size? Why is this the case? Are there lessons which are transferable? Is there any correlation between the average penalty size and the recidivism rate?*

### **b. Regional proportions of inspections and enforcement outputs per program**

**What are the regional proportions of inspection and enforcement outputs per program? Does any region stand out in terms of level of activity under a specific program?**

*If so, why? How were they able to accomplish this level of activity? Are there lessons which are transferable to other regions or media programs?*

## **8. Compliance Assistance**

**The FY 2001 GPRA target for the number of entities reached through compliance assistance is 450,000. Have we met this target? The FY 2001 GPRA target for the number of tribally owned/managed facilities reached through EPA compliance assistance is 30. Have we met this target? Does any region, media program or sector stand out in terms of level of overall compliance assistance provided?**

*Why is this the case? Are there lessons here which are transferable? Based on the review of the data, is there any guidance/feedback that needs to be provided to a particular region, or more, regarding level of effort towards compliance assistance?*

*Are we satisfied with the type of compliance assistance being provided by the regions? Are the regions using integrated strategies and coordinating with the states? If so, what has been their experience to date? Any recommendations from regions? What type of guidance has been provided to the regions regarding compliance assistance? Does this guidance need to change at all? What type of message from management has been provided to the regions regarding compliance assistance? Does this message need to change at all?*

**Based on the most recent Compliance Assistance Activity Plan, what is the number of planned activities for which each respective regional office has identified itself as the lead?**

*Does any region stand out in terms of number of planned activities? How is the region*

*able to accomplish this level of activity? Do the planned activities tend to address national, regional or state priorities, or core program activities? Is each region reporting their compliance assistance activities in the Annual Compliance Assistance Plan? Looking at last year's plan, did each region complete the activities proposed? If not, why not? Are there lessons to be taken into account with regard to future CA Activity Plans?*

**Examine the results of pilot program inspections which utilized the Inspection Conclusion Data Sheet (ICDS). More specifically, what is the percentage of pilot inspections, per program and region, which included the delivery of compliance assistance (CA)? What is the percentage, per program and region, which included the delivery of Tier 1 CA? Tier 2 CA?**

*Are there any stand-out regions or programs? How so? Why is that the case? Are there any lessons which are transferable? Does the delivery of compliance assistance during certain types of inspections indicate the need for any new CA guidance for a particular program or sector? How so?*

## **9. Injunctive Relief and Supplemental Environmental Projects (SEPs)**

**Is there a particular region or program which stands out in terms of the dollar value for injunctive relief? If so, why is this the case? Are there lessons which are transferable?**

*What is the overall trend in the regions and at HQ with regard to the number and percentage of cases with SEPs? Is the number remaining constant or increasing? If not, do we want to take action to influence the trend and increase the use of SEPs? What are the EPA costs associated with negotiating and monitoring SEPs? What is the current message to the regions from OECA management regarding use of SEPs? Does this message need to change or be expanded?*

**Is there a particular region with a high number or percentage of SEPs compared to other regions? Is this part of a trend? How did they achieve this? Are there lessons here which are transferable to other regions? What has been their experience with respect to the EPA costs associated with negotiating and monitoring SEPs?**

**Is there a particular region with a low number or percentage of SEPs compared to other regions? Why is this the case? What is the region's perspective on negotiation and monitoring of SEPs? What, if anything, does OECA want to do to influence the regions' use of SEPs? What action, if any, should be taken and by whom?**

**Is there a particular region (or more) which carried out the bulk of the Agency's work within a particular category of SEP? Why is that the case? Are there lessons here which are transferable to other regions?**

**Is the value of any of the SEPs unusually high (relative to other SEPs)? If so, why? What is the nature of these SEPs? Are there lessons here which are transferable to other Regions or media programs?**

## **10. Compliance incentive policies**

**Is each region using the audit policy? Is HQ using the audit policy? Is there a particular region or media program where there is greater use of the audit policy? Lesser use?**

*If so, why is this the case? Are they utilizing initiatives? How are they working out? Do they allow the regions to effectively expand their coverage of the regulated community? What are the resource costs compared to traditional means of identifying cases? Is there a trend with regard to the types of cases for which the audit policy is being used? Does the audit policy work particularly well with regard to these types of cases? Why? Are there lessons which are transferable to other regions? Does OECA wish to encourage use of the*

audit policy in particular regions? How is each region doing with regard to closure of and settling audit cases?

**Is each region using the small business policy? Is HQ using the policy? Is there a particular region or media program where there is greater use of this policy? Lesser use?**

*If so, why is this the case? Are they utilizing initiatives? How are they working out? Do they allow the regions to effectively expand their coverage of the regulated community? What are the resource costs compared to traditional means of identifying cases? Is there a trend with regard to the types of cases for which the small business policy is being used? Does the policy work particularly well with regard to these types of cases? Why? Are there lessons which are transferable to other regions? Does OECA wish to encourage use of the small business policy in particular regions? How is each region doing with regard to closure of and settling cases under the small business policy?*

*What lessons, if any, can be shared from past initiatives where compliance incentive policies were used?*

## **11. Administrative tracking and follow-up**

The regions and HQ are supposed to complete the Case Conclusion Data Sheet (CCDS) in order to provide information such as the following on their cases: 1) complying action data; 2) pollutants reduced; 3) injunctive relief value; and 4) SIC code data. The following questions are applicable to each of these four CCDS data elements: **What is the percentage of cases for which CCDSs are completed, per region and at HQ, for each of the aforementioned data elements?** Does any region seem to be doing particularly well with regard to completing the CCDS? Does any region appear to be having a problem in one or more areas? What about HQ? Which regions are having problems in which areas?

*If so, what is the underlying problem? What action can be taken to correct it? What follow-up should occur to ensure that completeness of the CCDS improves? Who should be responsible for this follow-up?*

With regard to consent decree (CD) tracking and follow-up, look at the compliance status of active decrees per region. **In which regions do more than 10% of CDs have the status “not reported or unknown”?** What is the underlying problem in each of these regions? Why can't they report the status of these CDs? What follow-up, and by whom, should occur to ensure that reporting increases?

Are all of the regions completing and submitting the Inspector Conclusion Data Sheet (ICDS) as requested for the pilot program areas? **What is the percentage of inspections, per pilot program and region, for which ICDSs were completed?**

*Does OECA need to follow-up with any particular region? If so, why and what form should that follow-up take? What has been the regions' experience with use of the ICDSs? Any regional recommendations for changes in content or approach? Is any region doing particularly well with regard to completing and submitting the ICDS? Are there lessons which are transferable? Does OECA need to follow-up with any particular region on this point?*

## Level of state enforcement and compliance assurance activity

The following measurement data can assist in informing management about the level of state activity.

### Relevant measurement data on state activity

1. Three year trend for state inspections and enforcement activity per program
2. Inspection coverage by states/EPA, identification of new SNCs, and number of state/EPA formal actions for three years \*
3. Inspection frequency (per region, state and program)
  - a. Percentage likelihood that a facility will be inspected over 1-2 years and over a 5 year period\*
  - b. Percent of inspections adhering to program-specific guidance on inspection frequency (if known)
4. Likelihood of an inspection identifying a violation (per region, state and program)\*
  - a. Ratio of inspections to new violators (i.e. average number of inspections to find a violator)
  - b. Ratio of inspections to new SNCs
  - c. Percent of inspections that reveal no violations (if known)
5. Likelihood that a violation will lead to an enforcement action - Ratio of violations to enforcement actions (formal vs informal actions)\*
6. Percent of actions that carry a monetary penalty and average penalty size\*
7. Time to return from significant non-compliance (SNC) per state and program \*
8. Rate of recidivism for significant non-compliers per state and program
9. Significant violators addressed in timely and appropriate fashion per state and program \*

In order to use the data as a management tool, the following questions could be asked and answered for each measure listed below.

### 1. Three year trend for state inspections and enforcement activity per program

**If the universe of regulated facilities is known per program, compare the number of inspections conducted to the number of regulated facilities. What is the overall state inspection trend per program? How does it compare to the universe of regulated facilities?**

*Are we satisfied with the inspection trend per program? Are state inspections, per program, remaining constant or increasing? If not, why not? What steps, if any, should be taken to influence the trend?*

Looking at state specific inspections, does any state stand out with regard to the level of inspections under a specific program? Are there any state specific inspection trends which raise concerns? *What is the basis for the concerns? What does the state see as the cause of the trend? Are there any steps which should be taken to address it? If so, what steps should be taken and by whom? Are the states using any alternative compliance monitoring techniques? If so, what techniques and have they been successful? How so?*

What is the trend with regard to state enforcement activity? *Are we satisfied with it? Is state enforcement activity remaining constant or increasing? If decreasing, what accounts for the decrease? What steps, if any, should be taken to influence the trend?*

Looking at state specific enforcement activity, does any state stand out with regard to the level of activity under a specific program? Are there any state specific enforcement trends which raise concerns? *What is the basis for the concerns? What does the region and/or state see as the cause of the trend? Are there any steps which should be taken to address it? If so, what steps should be taken and by whom?*

Does any region stand out in terms of the level of state activity under a specific program? *If so, why? Is this a one-time event or part of a trend? How were they able to accomplish this level of activity? Is the region's approach to monitoring the states' work different from that in other regions? Are there any lessons to be learned which are transferable?*

## **2. Inspection coverage by states/EPA, identification of new SNCs, and number of state/EPA formal actions for three years\***

**What is the trend with regard to inspection coverage per program?**

*Are we satisfied with the trend per program? Are we satisfied with the trend per region? Are we satisfied with the trend per state? Taking into account coverage by both the regions and the states, is there sufficient coverage per program? Are there any steps that we wish to take to influence inspection coverage within one or more particular program? Is there a minimum number of inspections that we want the EPA regions to conduct for certain programs? If so, for which programs? Have we communicated this to the regions? What approaches, if any, should be used to augment inspection coverage? Per program? What are the trade-offs, if any, associated with augmenting inspection coverage? If the states are providing sufficient coverage within a specific media program, do the regions need to devote resources to this media program? If so, why? What do the regions think? What do the states think? What does the OECA media manager think? Should the regions focus more inspection resources on non-delegated programs for which the states are not responsible? If not, why not?*

**Looking at each program, what is the trend per state with regard to identification of new SNCs?**

*If the state has identified a low number of SNCs, why is this the case? If there has been a significant reduction in identification of SNCs in a particular state (e.g. reduction of a third or more), why is this the case? What targeting techniques are they using? Are they new? How does the state's technique for identifying SNCs compare to that of a state with a high number of identified SNCs? If identification of SNCs has decreased, has there been an accompanying decrease in inspections? Is the state inputting SNC data into the computer system?*

**Looking at each program, what is the trend per state with regard to number of state formal actions? Number of EPA formal actions? Recognizing that there is not a one-to-one ratio, compare the number of state formal actions with the number of new SNC identified in the state. Compare the number of state formal actions with the number of inspections conducted in each state.**

*Are we satisfied with the trend on state formal actions? Are we satisfied with the trend on EPA formal actions? Does the number of state formal actions raise any concerns? If so, why? Does this concern remain even when taking into account the number of EPA formal actions? If the number of state formal actions seems to be low vis-a-vis the number of new SNC*

identified or inspections conducted, what accounts for the low number of state formal actions? What insight can the applicable region and/or state provide? What additional action, if any, needs to be taken by the state and/or EPA?

### **3. Inspection frequency (per region, state and program)**

**What is the likelihood that a facility will be inspected over 1-2 years and over a 5 year period? Examine this question per region, state and program. (This particular question addressing inspections over 1-2 years does not apply to the CAA program given prior agreements reached with OECA)**

*Is the resulting likelihood satisfactory? If not, why does the current situation exist? How does the likelihood compare to any program specific guidance for frequency of inspection? Are there any regions, states or programs which stand out in terms of frequency of inspection? How so? Are there lessons which are transferable? What action, if any, should be taken to influence the current status? Who should take this action? What are the trade-offs associated with influencing this? Does the data analysis indicate that any new EPA policy/guidance is necessary? Does the data analysis indicate that monitoring of inspection frequency needs to be revisited?*

**Looking at each program, what is our program-specific guidance, if any, on frequency of inspection? Where such guidance exists, what percent of state inspections, per program, adhere to it? Do we know? Are there any stand-out programs or states?**

*Why? Are there any lessons here which are transferable? Are the percentages generally low? Why is that the case? Do we need to handle the guidance differently with regard to changes in substance and/or approaches in implementation and monitoring?*

### **4. Likelihood of an inspection identifying a violation (per region, state, program)\***

**What is the likelihood of an inspection identifying a violation? Examine this question per region, state and program.**

*Is the ratio of inspections to new violators satisfactory from management's perspective? Is the ratio of inspections to new SNCs satisfactory? If the ratios are high, why is that the case? What is the percent of inspections that reveal no violations, per program? Are there regions, states or programs which stand out in terms of likelihood of identifying a violation? Why is that the case? What targeting techniques are used? Are there different targeting techniques which are used in the regions/states with a greater likelihood for identifying a violation? Are there lessons which are transferable? Are SNCs being identified but not reported? What should be done, if anything, to influence these ratios? Do the ratios call for any action to be taken by EPA or states? If so, what action needs to be taken and by whom?*

### **5. Likelihood that a violation will lead to an enforcement action - Ratio of violations to enforcement actions (formal vs informal actions)\***

**What is the likelihood that a violation will lead to an enforcement action? Examine this question per region, state and program.**

*Is the ratio of violations to enforcement actions (formal versus informal actions) acceptable? If the ratios are high, why is that the case? How are the violations being resolved? What actions are being taken by EPA and/or the state in response to the violation being identified? Is correction of violations being monitored? Are there any regions, states or programs which stand out in terms of likelihood that a violation will lead to an enforcement action? Why is that the case? Are there lessons here which are transferable? Do the ratios call for any new activity on the part of EPA or the state? If so, what type of action should be taken and by whom?*

## **6. Percent of actions that carry a monetary penalty and average penalty size\***

**What is the percent of actions that carry a monetary penalty? What is the average penalty size? Examine these questions per region, state and program.**

*Are we comfortable with the percentage? If not, what if anything should be done about it and by whom? Are there any regions, states or programs which stand out with regard to the percentage of actions that carry a monetary penalty? With regard to the average penalty size? Why is this the case? Are there lessons which are transferable? Is there any correlation between the average penalty size and the recidivism rate?*

## **7. Time to return from significant non-compliance per state and program\***

**Looking at the data available for the most recent fiscal year, in which states are significant non-compliers still out of compliance after a year? After 2 years?**

*Once these significant violators are identified by the state, how are they monitored until they return to compliance? What accounts for this extended period of non-compliance? In other words, why does it take so long to return to compliance? Are these complex cases? Are there any lessons to be learned which are transferable to other states or regions? Is there anything that EPA or the state should be doing to facilitate the return to compliance?*

**In which states are significant non-compliers back into compliance within a year?**

*Once these significant violators are identified by the state, how are they monitored until they return to compliance? Are there any lessons to be learned which are transferable to other states? If not, why not? If so, what are the lessons?*

## **8. Rate of recidivism for significant non-compliers per state and program**

**In which states is the rate of recidivism greater than the national average?**

*What accounts for such a high rate of recidivism? Is it a function of the level of inspection? What techniques, if any, are used to monitor these facilities once they are determined to be in significant non-compliance? What different techniques, if any, are used to monitor these facilities once they have recurring violations? Are there any lessons to be learned here which are transferable to other states or regions?*

**In which states is the rate of recidivism lower than the national average?**

*Why is this the case? Is it a function of the level of inspection? In these states, what techniques are used to ensure that SNCs stay in compliance? Are there any lessons to be learned here which are transferable to other states or regions?*

## **9. Addressing significant non-compliers in a timely and appropriate fashion per state and program\***

**Within the air program, look at the percentage of significant non-compliers (SNCs) unaddressed for greater than a year. In which states is the percentage unaddressed greater than the national average?**

*Why are these significant violators still unaddressed? Are these complex cases? What techniques are used in these states to monitor SNCs until their return to compliance? Are there any lessons to be learned here which are transferable to other states or regions?*

**Within the water program, look at the percentage of SNCs still unaddressed by the end of the year. In which states is the percentage unaddressed greater than the national average? Why is this occurring? Are these complex cases? What techniques are**

*used in these states to monitor SNCs until their return to compliance? Are there any lessons to be learned here which are transferable to other states or regions?*

Within the RCRA program, look at the “total new SNCs addressed.” Identify those states where the percentage of SNCs unaddressed for more than a year is greater than the national average. *Why are these SNCs still unaddressed? Are these complex cases? What techniques are used in these states to monitor SNCs until their return to compliance? Are there any lessons to be learned here which are transferable to other states or regions?*

## **Are we providing appropriate assistance to our state and tribal partners to help them contribute to improving environmental performance?**

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The following measurement data can assist in answering the question, “Are we providing appropriate assistance to our state and tribal partners to help them contribute to improving environmental performance?”

### **Relevant measurement data**

1. Training courses
2. Training modules for tribal governments
3. Number of state, tribal and local students trained
4. Assisted inspections
5. Compliance assistance tools \*

In the future, OECA will also collect national data on the number and type of EPA credentials issued to state and tribal inspectors.

As mentioned in the introductory section of this report, for each performance-based question, we should identify data gaps which we need to fill in the future. Specifically, with respect to the aforementioned question, we need to ask: “What data gaps limit our ability to provide appropriate assistance? What regions have established mechanisms that supplement limited data, and how has this manifest in providing assistance to states and tribes? Are there lessons which are transferable to other regions?”

In order to use the data that we do track as a management tool, the following questions could be answered for each data set listed below.

### **1. Training Courses**

**The FY 2001 GPRA target for the number of EPA training classes/seminars delivered to states, localities and tribes is 200. Have we met this target?**

*What’s the nature of these courses (e.g., inspector training)? Who generally participates in these courses? What’s the mechanism for obtaining feedback from course participants? Are we receiving more requests for training courses than we can deliver? Do we know how many requests for training courses we’re receiving compared to the number we’re providing? What type of infrastructure have OECA and the regions created for delivering inspector training to the regions? To the states? To the tribes? Is this infrastructure viewed as ad-*

equate? If not, what improvements are necessary? What trade-offs are associated with implementing these improvements?

## 2. Training modules for tribal governments

**The FY 2001 GPRA target for computer-based training (CBT) modules for tribal governments is 50. Have we met this target?**

*Are the CBT modules being utilized? If not, why not? Are we receiving more requests for CBT modules than we can deliver? If so, what is the discrepancy between the number requested and delivered? What would it take to meet the requests? What are the associated trade-offs if any?*

## 3. Number of state, tribal, and local students trained

**The FY 2001 GPRA target for total number of state and local students trained is 4900. Have we met this target? The FY 2001 GPRA target for tribal personnel trained is 105. Have we met this target?**

*What type of infrastructure have OECA and the regions created for delivering inspector training to the regions? To the states? To the tribes? Is this infrastructure viewed as adequate? What improvements, if any, are necessary? What trade-offs are associated with implementing these improvements?*

## 4. Assisted inspections

**The FY 2001 GPRA target for EPA-assisted inspections is 150. Have we met this target?**

*Are we responding to every request which we receive for an assisted inspection? If not, what's the approximate disparity between the number of requests that we receive versus the number that we're able to carry out? Does this seem reasonable? What type of feedback are we receiving on these inspections? Should we be doing more? If so, what are the trade-offs? Are these inspections being used as a method of building state/tribal capacity? If so, is it an effective approach for capacity building?*

## 5. Compliance assistance tools

**Through what types of regional compliance assistance activity is EPA reaching the regulated community? What wholesaler approaches does OECA use to provide compliance assistance?**

*Are the states and tribes satisfied with the compliance assistance being provided by the regions? By OECA? Do they have any recommendations for changes with regard to the compliance assistance provided by the regions? By OECA?*

**Respond to the following question based on the survey of compliance assistance center users: Does there continue to be a high percentage of compliance assistance providers (including states) who find the centers useful in improving their understanding of applicable environmental regulations? Based on this survey, does there continue to be a high percentage of compliance assistance providers who take action as a result of using the centers?**

*Are we supporting the centers by promoting their use? How so? What else, if anything, should be done to promote use of the centers? How, if at all, should we try to increase the percentage of compliance assistance providers (survey respondents) who find the centers useful and take action as a result of using the centers?*

**How many states have web sites (with compliance assistance information) linked to the EPA's national compliance assistance clearinghouse? How many tribes have web sites linked to EPA's clearinghouse?**

*Do the states and tribes use the clearinghouse? Do we have any information as to whether or not the states and tribes find the clearinghouse useful? Do we know if they have recommendations for improvement? What does OECA do to encourage use of the clearinghouse by states? By tribes? What, if anything else, should OECA do to encourage its use by states and tribes?*

The question of whether or not we're providing appropriate assistance to the states and tribes is one which necessitates information much broader than the five data items previously listed and tracked in our data base. The assistance which OECA and the regions provide to the states and tribes takes many forms, including the following: state and tribal grant funds; compliance assistance tools; training courses; assisted inspections; guidance documents and compliance incentive policies; national meetings; case development assistance; and responses to telephone inquiries.

A continuing and detailed dialogue with our state and tribal colleagues is necessary in order to determine if OECA and the regions are providing appropriate assistance to the states and tribes in light of current resources. This continuing dialogue is much more important than responding to the limited number of aforementioned questions included in this section of the report. Routine communication channels with state and tribal organizations already exist which can facilitate the necessary discussions. These discussions should encompass both tailored and general questions such as: What support should OECA and the regions continue to provide to the states and tribes? Taking into account existing resources, what other specific support needs to be provided to assist the states and tribes in doing their jobs? What are the trade-offs if such support is to be provided?

In summary, the information necessary to answer the question, "Are we providing appropriate assistance to our state and tribal partners to help them contribute to improving environmental performance?" is much more comprehensive than the five data items listed in the "relevant data" box on page 26. The information in our data bases which is relevant to this question is extremely limited in nature. In light of this, we recommend that existing communication channels continue to be used to gather the comprehensive information which must be analyzed to effectively respond to this question.

## **Presentation of Measurement Data and Analysis to Senior Management**

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The critical next steps include analyzing the data based on the questions outlined in this report and presenting the findings to the AA and OECA senior management. The analysis of the data is the most time-consuming and crucial next step. The quality of that analysis impacts the decisions to be made by senior management.

As proposed, the data analysis and follow-up questions would be completed by senior staff located in the Office of Compliance. Many of these follow-up questions would necessitate detailed discussions with the regions and the Office of Regulatory Enforcement (ORE). The initial data analysis on state activities would also be conducted by OC's senior staff, but that analysis would then be passed onto the EPA regions, who could talk to their state colleagues in order to obtain explanations of the state data and state practices. Through this process, the regions would become involved in the data analysis. The OC and ORE office directors would make recommendations to the AA regarding what steps, if any, should be taken based on the data analysis completed by the staff and the additional information obtained and offered by the regions.

Currently, most of the data collected or accessed by OECA is updated by the regions on a semi-annual basis. (For example, most of the mid-year data must be input into the data systems by May of each year. Most of the end-of-year data must be provided by December.) This means that there is some lag time between the completion of the compliance and enforcement activity, the data entry, the time that OECA is ready to print the measurement data via chart format, and the time that the data can be thoroughly analyzed.

In light of this lag time, OC believes that it would be best to thoroughly analyze the measurement data for the AA on an annual basis. The only exception would be the data which can assist in answering the question, "Are we achieving the appropriate levels of enforcement and compliance assurance activity in the regulated community?". A sub-set of this data, for the current year, could also be reviewed on a semi-annual basis.

# ATTACHMENT

## **Summary of Key Measurement Data**

The six performance-based questions and a summary of the key measurement data, currently collected, are attached.

# Performance-Based Questions

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The following performance-based questions were identified as major ones of potential interest to OECA's Assistant Administrator and senior managers:

1. Are we making progress in addressing national priorities and objectives?
2. Are we contributing to the goal of protecting human health and the environment through our actions and strategies?
3. Are we changing the behavior of the regulated community in ways that lead to improved environmental performance?
4. Are we achieving appropriate levels of compliance in key populations?
5. Are we achieving the appropriate levels of enforcement and compliance assurance activity in the regulated community?
6. Are we providing appropriate assistance to our state and tribal partners to help them contribute to improving environmental performance?

## **Relevant Measurement Data**

The following pages list the current relevant and key measurement data which can assist in answering each performance-based question.

You will note that there are asterisks \* placed next to specific data items. Such data will not be presented to senior management due to volume. Instead, such data will be analyzed and the relevant analyses will be shared with senior management. The rest of the data, which are not asterisked, will be provided to senior management in summary form, along with the accompanying pertinent analysis.

## **Are we making progress in addressing national priorities and objectives?**

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### **Relevant measurement data**

1. Priority-specific measures
2. Planned versus actual accomplishments under GPRA Goal 9 measures  
(Note: The Goal 9 “table of results” from the Agency’s Annual Report would be utilized here.)

## **Are we contributing to the goal of protecting human health and the environment through our actions and strategies?**

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### **Relevant measurement data**

1. Program/sector-specific compliance/enforcement data focused on areas of serious risk
2. Percent of enforcement actions that result in reduction, elimination or treatment of pollutants – three year trend per program and region
3. Pounds of pollutants expected to be reduced through SEPs and injunctive relief/other compliance actions – three year trend per program and region
4. Percent of enforcement actions ensuring compliance with requirements for risk monitoring, reporting and management – three year trend per program and region
5. Dollar value of injunctive relief - three year trend per program and region
6. Percent of facilities which address deficiencies during inspections resulting in reduced pollution, per program and region  
(ICDS data available beginning in FY 2002 for CAA-stationary sources, CWA-NPDES, GLPs, TSCA lead-based paint)

## **Are we changing the behavior of the regulated community in ways that lead to improved environmental performance?**

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### **Relevant Measurement Data**

1. Percent of SNCs that return to compliance in less than 2 years\*
2. Recidivism rate for significant violators per program and state\*
3. Use of compliance assistance centers and resulting actions – three year trend
4. Use of compliance incentives and resulting impacts – three year trend per program and region
5. Percent of facilities which address deficiencies during inspections, per region/ program, and types of actions taken  
(ICDS data available in FY 2002 for CAA-stationary sources, CWA-NPDES, GLPS, TSCA lead-based paint)
6. Percent of enforcement actions requiring improvements in environmental management – three year trend per program and region
7. Changes in environmental performance resulting from SEPs  
(i.e. pounds of pollutants expected to be reduced) and EPA actions which led to these changes (i.e. cases with SEPs and types of SEPs negotiated) – three year trend per program and region
8. Statistically valid non-compliance rates for selected populations  
(Data available beginning in FY 2001/2002. Need to track over time.)

## **Are we achieving appropriate levels of compliance in key populations?**

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### **Relevant measurement data**

1. Statistically valid non-compliance rates for selected populations  
(Data will begin to be available in FY 2001/2002. Need to track over time.)
2. Rates for SNC populations
  - a. Number/percent of inspected facilities and violators that are SNCs per region, state and program\*
  - b. Time to return from SNC per region, state and program\*
  - c. Rate of recidivism for SNC per region, state and program

**Are we achieving the appropriate levels of enforcement and compliance assurance activity in the regulated community?**

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Level of EPA Enforcement and Compliance Assurance Activity - Data on page 7.

Level of State Enforcement and Compliance Assurance Activity - Data on page 8.

## Relevant measurement data on regional & HQ activity (by program and sector)

1. Basic EPA compliance and enforcement activities over 3 year period, by program, region and HQ\*  
Note: This covers: a) civil and criminal inspections/investigations and projections (including inspection types per media and tribal inspections); b) administrative compliance orders issued; c) administrative penalty complaints and final penalty orders; d) informal actions; e) civil referrals to DOJ; f) civil judicial settlements; g) criminal referrals; and h) responses to citizen complaints. A national one page summary would be provided for senior mgmt.
2. Three year national totals for EPA inspections and enforcement per sector
3. EPA and state inspection coverage in a given year per program, region and state (over 3 years)\* (Note: Items 3-7 are also analyzed in state section.)
4. Inspection frequency (per region, state & program)
  - a. Percentage likelihood that a facility will be inspected over 1-2 years and over a 5 year period\*
  - b. Percent of inspections adhering to program-specific guidance on inspection frequency
5. Likelihood of an inspection identifying a violation (per region, state & program)
  - a. Ratio of inspections to new violators\*
  - b. Ratio of inspections to new SNC\*
  - c. Percent of EPA inspections that reveal no violations
6. Likelihood that a violation will lead to an enforcement action - Ratio of violations to enforcement actions (informal vs. formal actions)\*
7. Regional proportions
  - a. Percent of actions that carry a monetary penalty & average penalty size per region, state and program\*
  - b. Regional proportions of inspection & enforcement outputs per program
8. Compliance Assistance (CA)
  - a. Number & types of CA outputs by region, program and sector
  - b. Number & types of planned CA activities, per region, included in compliance assistance plan\*
  - c. Percentage of ICDS pilot inspections, per program and region, which include delivery of CA\*
9. Injunctive Relief and Supplemental Environmental Projects (SEPs)
10. Compliance incentives
  - a. Number of cos. & facilities disclosing & settling violations under the audit & small business policy per program and region - 3 year trend
11. Administrative tracking and follow-up
  - a. Regional judicial consent decree tracking and follow-up
  - b. Completeness of case conclusion data sheet attributes in docket
  - c. Use of Inspection Conclusion Data Sheet (ICDS)\*

### Relevant measurement data on state activity

1. Three year trend for state inspections and enforcement activity per program
2. Inspection coverage by states/EPA, identification of new SNCs, and number of state/EPA formal actions for three years \*
3. Inspection frequency (per region, state and program)
  - a. Percentage likelihood that a facility will be inspected over 1-2 years and over a 5 year period\*
  - b. Percent of inspections adhering to program-specific guidance on inspection frequency (if known)
4. Likelihood of an inspection identifying a violation (per region, state and program)\*
  - a. Ratio of inspections to new violators  
(i.e. average number of inspections to find a violator)
  - b. Ratio of inspections to new SNCs
  - c. Percent of inspections that reveal no violations (if known)
5. Likelihood that a violation will lead to an enforcement action - Ratio of violations to enforcement actions (formal vs informal actions)\*
6. Percent of actions that carry a monetary penalty and average penalty size\*
7. Time to return from significant non-compliance (SNC) per state and program \*
8. Rate of recidivism for significant non-compliers per state and program
9. Significant violators addressed in timely and appropriate fashion per state and program \*

## **Are we providing appropriate assistance to our state and tribal partners to help them contribute to improving environmental performance?**

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### **Relevant measurement data**

1. Training courses
2. Training modules for tribal governments
3. Number of state, tribal and local students trained
4. Assisted inspections
5. Compliance assistance tools \*